

# **THE BALOCHISTAN TOBACCO VEND ACT, 1958**

**(W.P. Act XXXVIII of 1958)**

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# **<sup>1</sup>THE <sup>2</sup>[BALOCHISTAN<sup>3</sup>] TOBACCO VEND ACT, 1958**

**(W.P. Act XXXVIII of 1958)**

[5<sup>th</sup> May, 1958]

An Act to consolidate the law relating to the regulation of retail sale of manufactured tobacco in urban areas in the interest of public health on a uniform basis in the Province of <sup>2</sup>[Balochistan].

Preamble.

WHEREAS it is expedient to consolidate the law relating to the regulation of the retail sale of manufactured tobacco in urban areas in the interest of public health on a uniform basis in the Province of <sup>2</sup>[Balochistan];

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the <sup>2</sup>[Balochistan] Tobacco Vend Act, 1958.

<sup>4</sup>[(2) It extends to the whole of the Province of <sup>2</sup>[Balochistan) except the Tribal Areas.]

(3) It shall be deemed to have come into force from the first of April, 1958.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "Collector" means any officer appointed<sup>5</sup> by Government to discharge throughout any specified local area the functions of a Collector under this Act;

(b) "Commissioner" means the Head of the Excise and Taxation Department in <sup>2</sup>[Balochistan] and includes any other officer appointed by Government to exercise the functions and perform the duties of Commissioner under this

<sup>1</sup> For statement of objects and reasons, see W.P. Gazette (Extraordinary) 1958, p. 433. This Act was passed by the W.P. Assembly on 3rd April, 1958; assented to by the Governor of W.P. on 30th April, 1958; and, published in the W.P. Gazette (Extraordinary), dated 5th May, 1958, pages 791-95.

<sup>2</sup> Subs. by Baln, A.O. 1975, for "West Pakistan".

<sup>3</sup> Spelling of the word "Baluchistan", wherever it appears in this Act, is corrected by insertion of letter "o" instead of "u", as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18<sup>th</sup> June, 1989.

<sup>4</sup> Subs. by W.P. Act XV of 1964.

<sup>5</sup> Every Deputy Director and Assistant Director of Excise and Taxation has been authorised to discharge the duties of a Collector under this section, see Gazette of West Pakistan, 1959, Pt. I, p. 59.

Act;

- (c) "dealer's licence" means a licence authorising a person to whom it is granted to sell or keep for sale by retail manufactured tobacco;
- (d) "Government" means the Government of <sup>1</sup>(Balochistan);
- (e) "manufactured tobacco" means tobacco in any shape or form intended for the purpose of smoking, chewing or for use as snuff, or any preparation or admixture of tobacco intended for the said purpose or use, and includes bidis, cigarettes or cigars;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "tobacco" includes the leaves, stalks and stem of the tobacco plant (*Nicotiana rustica* and *Nicotiana tabacum*); and
- (h) "urban area" means any area within the limits of a municipality, <sup>2</sup>[town committee], cantonment or railway station.

Prohibition against dealing in manufactured tobacco without dealer's licence.

3. No person who does not grow tobacco himself or with the aid of the members of his family or by tenants or hired labour shall keep for retail sale or sell by retail manufactured tobacco in any urban area without a dealer's licence.

Grant of dealer's licence.

4. (1) The Collector <sup>3</sup>[or any person authorised by him in this behalf] may issue a dealer's licence.

(2) Every such licence shall be granted—

- (a) on payment of such fees and for such period as may be prescribed<sup>4</sup> by Government; and
- (b) subject to such conditions and in such form and containing such particulars as may be

<sup>1</sup> Subs. by Baln, A.O. of 1975, for "West Pakistan".

<sup>2</sup> Subs. by W.P. Ord. XXXV of 1965, for "notified area".

<sup>3</sup> Ins. by W.P. Ord, IX of 1959.

<sup>4</sup> See rule 1 of the W.P. Tobacco Vend Rules, 1958, framed under s. 12 (2).

prescribed<sup>1</sup> by the Commissioner.

Penalty for offences under section 3 and for breach of conditions of licence.

5. (1) Whoever, in contravention of the provisions of section 3, keeps for sale or sells by retail manufactured tobacco, or being the holder of a dealer's licence commits a breach of any of the conditions subject to which the licence has been granted shall be punishable with fine which may extend to one hundred rupees.

(2) When any person is convicted under sub-section (1) of a breach of any of the conditions of his licence, the Collector may suspend or cancel his licence.

Powers of Magistrate to direct payment of licence fees in addition to fine.

6. When any person who does not hold a dealer's licence is convicted of an offence under sub-section (1) of section 5, the magistrate may direct that such person shall pay, in addition to the fine imposed on him, the fees payable for a dealer's licence.

Composition of offences.

7. The Collector or any magistrate authorized by him may accept from any person against whom a reasonable suspicion exists that he has committed an offence under this Act, a sum of money not exceeding one hundred rupees by way of composition for such offence or alleged offence.

Officers of the Excise and Taxation Department to have powers of investigation.

8. Every officer of the Excise and Taxation Department not below such rank as Government may prescribe<sup>2</sup> shall have the powers of a police officer in charge of a police station and may investigate offences under this Act without the order of a magistrate and exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

Penalty for vexatious search or arrest.

9. Any officer of the Excise and Taxation Department who without reasonable ground or suspicion enters or searches or causes to be searched any building or vexatiously and unnecessarily detains, searches or arrests any person, shall be liable to be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred

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<sup>1</sup> See W.P. Tobacco Vend (Forms and Conditions of Licence) Rules, 1958, framed under s. 12 (3).

<sup>2</sup> See rule 5 of the W.P. Tobacco Vend Rules, 1958.

rupees or with both.

Cognizance of offences.

10. No magistrate shall take cognizance of any offence punishable under this Act except on the complaint of the Collector or an officer authorised by him in this behalf, within six months of the date on which the offence is alleged to have been committed.

Powers to enter and inspect.

11. Any officer of the Excise and Taxation Department not below such rank as Government may prescribe<sup>1</sup> may—

- (a) enter and inspect at any time within the hours during which sale is permitted or at any other time during which the same may be open, any place in which manufactured tobacco is kept for sale by any person holding a licence under this Act: and
- (b) examine accounts maintained in such place.

Power to make rules.

12. (1) Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, Government may make rules<sup>2</sup> for all or any of the following matters, namely:—

- (a) prescribing the fees on payment of which and the period for which a licence under this Act may be granted;
- (b) prescribing the rank of officers of the Excise and Taxation Department for the purposes of sections 8 and 11;
- (c) regulating the procedure to be followed by officers in the exercise of their powers and performance of their duties under this Act and prescribing the restrictions subject to which such powers shall be exercised.

(3) The Commissioner may make rules<sup>3</sup> for all

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<sup>1</sup> See rule 5 of the W.P. Tobacco Vend Rules, 1958, framed under s. 12 (2).

<sup>2</sup> For rules under this sub-section i.e. W.P. Tobacco Vend Rules, 1958, see West Pakistan Gazette, dated 2<sup>nd</sup> January, 1959, Pt. III, pp. 9 to 13.

<sup>3</sup> For rules under this sub-section i.e. W.P. Tobacco Vend (Forms and Conditions of Licences) Rules, 1958, see West Pakistan Gazette, dated 2<sup>nd</sup> January, 1959, Pt. III, pp. 9 to 13.

or any of the following matters, namely:—

- (a) prescribing the conditions subject to which a licence under this Act may be granted;
- (b) prescribing the particulars to be contained in, and the form of, such licence;
- (c) prescribing the manner in which payment shall be made for such licence fees and the manner in which such licences shall be issued.

(4) The rules made under this section shall be published in the official Gazette.

(5) The rules made under this section shall be laid upon the table of the West Pakistan<sup>1</sup> Provincial Assembly, at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly.

Repeals and savings.

13. (1) The following enactments are hereby repealed:—

- (a) The <sup>2</sup>Bombay (District) Tobacco Act, 1933, in its application to the former Province of Sind;
- <sup>3</sup>[(aa) The <sup>2</sup>Bombay (District) Tobacco Act, 1933, in its application to the District of Karachi);
- (b) The <sup>4</sup>Punjab Tobacco Vend Fees Act, 1934;
- (c) The <sup>5</sup>North-West Frontier Province Tobacco Vend Fees Act, 1938;
- (d) The <sup>4</sup>Punjab Tobacco Vend Fees Act, 1934, as applicable to the former State of Bahawalpur; and
- (e) The <sup>6</sup>Balochistan Tobacco Vend Fees

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<sup>1</sup> Now "Balochistan".

<sup>2</sup> i.e. Bombay Act II of 1933.

<sup>3</sup> Ins. by W.P. Act xv of 1964.

<sup>4</sup> i.e. Punjab Act V of 1934.

<sup>5</sup> i.e. N.W.F.P. Act II of 1938.

Regulation, 1942.

(2) Notwithstanding the repeal of the enactments mentioned in sub-section (1) everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, order or notification issued under any of the provisions of the said enactments, shall if not inconsistent with the provisions of this Act, continue in force, and be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred or issued under this Act.

(3) Until rules are made under this Act the rules<sup>7</sup> made under the <sup>8</sup>Punjab Tobacco Vend Fees Act, 1934, in so far as they are consistent with the provisions of this Act, shall be deemed to be rules made under this Act.

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<sup>6</sup> i.e. Balochistan Reg. II of 1942.

<sup>7</sup> See the Punjab Tax Manual, Vol. I.

<sup>8</sup> i.e. Punjab Act V of 1934.